

Appl. No.: 10/815,405  
Amdt. Dated: November 8, 2007  
Office Action Mailed: August 8, 2007

#### **AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawing includes changes to Figure 2. The Figure has been amended to more clearly show the relationship of the reference numbers to the referenced elements. No new matter has been added.

Attachments: One Replacement Sheet for Fig. 2.

## REMARKS

### Summary of the Office Action

This office action arose from the application filed on March 31, 2004. Pending claims 1-58 have received a non-final rejection. Claims 42-47 have been renumbered and are currently amended.

### Drawing Objections

Fig. 2 has been revised to overcome the Examiner's objections. The Examiner alleged that Fig. 2's reference 50, 71, and 72 were unlabelled. However, the PTO online documents, as retrieved from PAIRS, show that these elements are labeled. The amended drawing is attached as Appendix A. The amended drawing includes two changes for additional clarity: the box outlining Network Device 30 has been resized and changed from a solid border to a dashed border, and the label for Network Device Application 75 has been moved. Fig. 2's reference 50, 71, and 72 are labeled as before.

### Enablement

Claims 20-23 are rejected as based on a disclosure that is allegedly not enabling on the basis that the term "asymmetric encryption algorithm" is not defined, as in claim 20, "The method of claim 14 wherein the encryption key is a private encryption key, and wherein the configuration information is encrypted using an asymmetric encryption algorithm." The

background information has been amended to include references to these terms as known commonly in the art, and new IDS disclosures are being filed. Paragraph 4 (background) and paragraph 18 were amended for clarity, and no new material has been added.

## **Anticipation**

### **Claim Rejections: Anticipation**

The Examiner has rejected claims 1-58 as allegedly being anticipated by Normura et al. (U.S. Patent Number 6,930,984, hereinafter *Normura*).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) (claim to a system for setting a computer clock to an offset time to address the Year 2000 (Y2K) problem, applicable to records with year date data in "at least one of two-digit, three-digit, or four-digit" representations, was held anticipated by a system that offsets year dates in only two-digit formats). See also MPEP § 2131.02, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

### **The Claimed Subject Matter is Allowable over the Cited Reference**

As noted in Applicant's paragraph 4, the present invention is intended to facilitate automated, remote deployment of network devices:

"The deployment, configuration and management of enterprise networks often requires specially-trained personnel tasked with installing and maintaining the network devices implementing or supporting the networks. For example, after physical installation of the network device, a network administrator typically must access a configuration interface *to provide initial configuration information, such as an IP address and subnet mask.* ... Given the vast array of enterprise network topologies discussed above, methods, apparatuses and systems are required to facilitate automated, remote deployment of network devices. Embodiments of the present invention substantially fulfill this need." [Emphasis added].

As explained above, the purpose of Applicant's invention is to provide a method and means for automated deployment and configuration of network devices, and particularly, to provide initial configuration information, such as an IP address and subnet mask. "The present invention provides methods, apparatuses and systems facilitating remote deployment of network devices." (Summary, para. 5). Said initial configuration is, by definition, applied to unconfigured network devices.

Every independent claim reflects that the invention is applied to devices which have not been initially configured. Claim 1 includes "monitoring, at a network device operating in an *unconfigured* mode"; amended claim 9 is for a "A method facilitating remote deployment and configuration of a network device physically installed on a first network, wherein the network device is *initially unconfigured* and operative to intercept configuration messages..."; claim 24 is for "A method facilitating remote deployment of network devices, comprising monitoring, at a network device in an *unconfigured* mode, for a configuration message..." Claim 31 is for "A method facilitating remote deployment of network devices, comprising intercepting, at a network device in an *unconfigured* state, a configuration message transmitted by a network management system, wherein the configuration message includes configuration information for the network

device; after detection of a configuration message, validating the configuration message; if the configuration message is valid, configuring the network device using the configuration information in the configuration message.” Claim 36 includes “a configuration daemon operative, when the network device is an *unconfigured* state, . . . to monitor . . . validate configuration messages; and invoke the configuration interface module.” Similarly, claim 39 involves a “configuration daemon operative, in an *unconfigured* mode . . .” Claims 41 includes “wherein an *unconfigured* network device is disposed on the communications path between the gateway router and the network device, wherein the network device is operative, in an *unconfigured* mode, to intercept configuration messages.” Claim 48 calls for “establishing, in an *unconfigured* mode, a connection with a remote device for configuration information.”

As opposed to Applicant’s invention, *Normura* involves a user of a communications terminal who logs in to a remote server system *over a pre-configured network*. *Normura* describes 5 embodiments, in which each “detects and identifies the fact that a user has logged in from a communications terminal C or that a user has launched a predetermined application on the communications terminal C.” In response, the system *re-configures* one or more network devices on the communication link to provide priority based on a user log-in (First Embodiment, col. 7 line 45 – col. 8 line 59), to provide priority control based on the user identity in launching an application (Second Embodiment, col. 8, line 61 – col. 9, line 40), to provide priority control based on launching of an application (Third Embodiment, col. 9, line 42 – col. 10, line 42), to provide bandwidth control of application traffic (Fourth Embodiment, col. 10, line 46 – col. 11, line 51), or to adjust user bandwidth based on a user log-in (Fifth Embodiment, col. 11, line 53 – col. 12, line 57).

In each of these embodiments, *Normura* assumes that routers, switches, and other intermediate network devices are already pre-configured with an IP address and that the network topology is pre-defined. *Normura* asserts that “As a result [of the first aspect of the invention] control of priority can be performed dynamically, without using a specific protocol such as RSVP, even if there is a change in a terminal used by a user or a change in network configuration, such as a change due to addition of a network device.” (col. 4, lines 13-18).

Although *Normura* speaks vaguely of a response to “a change due to addition of a network device,” no such response is enabled by *Normura*’s application. Every re-configuration of the network is in response to an event detector which detects a user log-in or the launch of a user application. (Col 7, lines 62-67). Each network device in the network is assumed to have entries in a Directory Server 16 (col. 13, line 45 – col. 14, line 23) corresponding to a valid initial network device configuration. For example, the IP address of every router and switch on the communication link between the user terminal and the remote server is pre-configured, and the network topology is known. For example, col. 14 lines 54 – col. 15 line 25 describe the available pre-configuration data: “Next, using IP routing information from the IP address of the client 11 and the IP address of the server 12, the configuration server 18 specifies the routers, 141, 142 and the switches 151, 152, 153, that relayed the sent and received traffic that occurs between the client 11 and the server 12” (*Normura*, col. 14, lines 54-61). Routers are assumed to transmit Link State Advertisements “indicating the router connection relationship.” (col. 14, line 66 – Col. 15, line 1). Further, “the configuration server 18 acquires information relating to each router (the state of the routers and configuration items) from the obtained IP addresses of the relaying routers.” (Col. 15, lines 26 – 29).

Clearly, the routers and switches in *Normura*’s system are pre-configured with at least an IP address, whereas Applicant’s invention is a method and apparatus for initial configuring of an unconfigured network to assign configuration parameters such as an IP address and a subnet mask. These pre-configuration parameters are required pre-existing elements of *Normura*’s system, and his application does not provide a means to pre-configure these network devices. As such, an essential element of Applicant’s invention is missing in *Normura*, and Applicant’s invention is not anticipated by *Normura*.

Appl. No.: 10/815,405  
Amdt. Dated: November 8, 2007  
Office Action Mailed: August 8, 2007

In light of the foregoing, Applicants believe that all currently pending claims are presently in condition for allowance. Applicants respectfully request a timely Notice of Allowance be issued in this case. If the Examiner believes that any further action by Applicants is necessary to place this application in condition for allowance, Applicants request a telephone conference with the undersigned at the telephone number set forth below.

Respectfully Submitted,

LAW OFFICE OF MARK J. SPOLYAR

Date: November 8, 2007  
Customer Number: 30505  
Law Office of Mark J. Spolyar  
2200 Cesar Chavez St, Suite 8  
San Francisco, CA 94124  
415-826-7966  
415-480-1780 fax

*/Mark J. Spolyar/*  
Mark J. Spolyar  
Reg. No. 42,164